IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.84 OF 2005

Dattatray D. Gandhi
(since deceased through heirs) ...Appellants

vs.

Ramesh S. Joshi & Others ...Respondents

Ms Seema Sarnaik for the Appellants

CORAM: A.S.OKA,J.
DATE : MARCH 17,2005.

P.C.:

1. Heard Counsel for the Appellants. The Appeal is by unsuccessful Plaintiffs, in a suit simplicitor for perpetual injunction. Initially there was an order passed by the Authorities under Bombay Tenancy and Agricultural Lands Act, 1948 in favour of the Appellants holding that the Appellants were entitled to purchase a part of the suit property under Section 32-G of the said Act of 1948. However, the sale in favour of the Appellant was declared as ineffective on 16th May 1968. Later on in the year 1984 in a fresh proceedings under the said Act of 1948 an order was passed under Section 32-G in favour of the Appellants in respect of the entire suit land which came to be set aside later on and has attained finality as the said order was confirmed by this Court.

2. The learned Counsel for the Appellants submitted that in respect of the part of the suit land purchase was declared as ineffective on 16th May 1968 and no steps were taken by the Respondents-landlords to evict the Appellants and therefore in

respect of the said portion the Appellants have perfected that title by adverse possession.

3. I have considered the submissions. It is to be noted here that at the instance of the Appellants the order was passed under Section 32-G of the said Act of 1948 in the year 1984 in respect of the entire suit land. Thus, at least till the year 1984 the Appellants were claiming that their possession was referable to lawful title. The suit is filed in the year 1991 and hence obviously the Appellants cannot claim that their title to the suit property is perfected by adverse possession. Therefore, the Appellants cannot claim any right, title or interests in respect of the suit land. The suit is filed by the Appellants against the true owners. Therefore, the Appellants are not entitled to claim injunction against the true owners as they have no right, title or interests in respect of the suit land. There is no error in the view taken by the Courts below. Appeal is dismissed with no order as to costs.

4. At this stage, the learned Counsel for the Appellant prays that ad-interim order passed on 2nd February 2005 by this Court be extended for a period of eight weeks. Ad-interim order passed earlier will continue to operate for a period of six weeks from today.

JUDGE.